

REMARKS

Applicant thanks the Examiner for the conference with the Undersigned on October 27, 2004. Applicants discussed prior art including Nottingham et al., Kelsey, Moore, and DeJean. It was agreed that Applicant would submit a response addressing the outstanding office action. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-3, 7, 10, 11, 13, 15-23, 25-26, 36-39, and 41-43 are now pending in this application.

Claims 1-3, 7, 11, 15-16, 20-21, 23, 25-26, 36-39 and 41-42 were rejected under 35 U.S.C. 102(e) as being anticipated by Nottingham et al. 2002/0195471. It is submitted that Nottingham does not disclose all of the elements of the rejected claims and therefore does not anticipate the rejected claims.

Specifically, with respect to independent claim 1, Nottingham does not disclose a threaded raised neck portion being offset from a center of the top of the body and defining an opening. The Examiner identified attachment mechanism 66, 76 as the basis for the rejection. As illustrated in Figure 12, the threaded attachment mechanism that defines the opening of the container is located in the center of the top of the body and not offset from the center of the top of the body as recited in claim 1. Accordingly, it is requested that the rejection of claim 1 be withdrawn. Claims 2, 3, 7, 11, 15, 36, 37, 39, and 43 depend from claim 1 and are patentable over Nottingham for at least the reasons stated above with respect to claim 1.

Turning to independent claim 16, Nottingham does not disclose a second handle attached to the body along a line perpendicular to the pouring direction and attached to the body at pivots spaced from and independent of the raised portion. Rather, handle 120 of Nottingham is secured to a hoop 126 that is directly located about the neck or raised portion of the container. Accordingly, it is requested that the rejection of claim 16 be withdrawn.

Claim 41 depends from claim 16 and is patentable over Nottingham for at least the reason stated above with respect to claim 16.

Referring to Claim 20, Nottingham does not disclose a second pivoting handle having a center portion removably received within a depression on the top proximate the integral handle and located between an outer periphery of the body and the raised neck portion and being spaced from and nonadjacent to the outer periphery of the body and the raised neck portion, as recited in claim 20. Since Nottingham does not anticipate claim 20 it is requested that the rejection of claim 20 be withdrawn. Claim 41 depends from claim 16 and is patentable over Nottingham for at least the reasons stated above with respect to claim 16.

In paragraph 5 of the office action, claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Moore 5,251,788. Moore teaches the use of the cap as a measuring cup but does not teach the use of a cap as a paint dish. Claim 13 depends from claim 1 and is patentable over Nottingham for at least the same reasons discussed above with respect to claim 1. Moore does not provide either alone or in combination the elements missing with respect to claim 1. Accordingly, it is requested that the rejection of claim 13 be withdrawn.

In paragraph 6 of the office action, claims 17-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Kelsey 5,269,438. Kelsey discloses a handle 4 located either adjacent to the opening 6 as illustrated in FIG. 3 or to the outer periphery of the body as illustrated in FIG. 6. Neither Nottingham nor Kelsey teaches, discloses or suggests a second handle located in a depression in the top located between an outer periphery of the body and the raised portion as recited in claim 17.

In paragraph 7 claims 10, 22 and 43 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of DeJean. Claims 10 and 43 depend from claim 1 and are patentable over the cited art for the same reasons discussed. DeJean does not teach, disclose or suggest the invention as recited in claim 1 either alone or in combination with the cited references. Similarly, claim 22 depends from claim 20 and is patentable over the cited art for the reasons discussed above with respect to claim 20. Claims 22 and 43 are patentable

over Nottingham in view of DeJean since the references do not teach, disclose or suggest either alone or in combination a shroud that does not extend beyond the outer periphery of the body. Rather, DeJean teaches an upwardly extending portion of the spout that extends beyond the outer periphery of the body. Accordingly, claims 22 and 43 are patentable over the cited references. With respect to claim 10, neither reference teaches, discloses, or suggests "a splash guard being external to the cap when the cap is secured to the neck portion, and the spout being covered by the cap when the cap is secured to the neck portion" as recited in claim 10. Accordingly, claim 10 is patentable over the cited references.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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